

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 7080 – SB 7051

August 21, 2023

SUMMARY OF BILL: Expands the offense of reckless endangerment to include failing to lock, secure, or otherwise store or make unavailable a firearm and ammunition for the firearm that results in a child under 13 years of age gaining possession of the firearm and committing an act of mass violence that injures or kills the child or another. Effective October 1, 2023.

FISCAL IMPACT:

Increase State Expenditures – \$20,000 Incarceration

**Decrease Local Expenditures – \$900/FY23-24
\$1,200/FY24-25 and Subsequent Years**

Assumptions:

- Tennessee Code Annotated § 39-13-103(a) establishes that a person commits reckless endangerment who recklessly engages in conduct that places or may place another person in imminent danger of death or serious bodily injury.
- Pursuant to § 39-13-103(b):
 - Reckless endangerment is a Class A misdemeanor.
 - Reckless endangerment committed with a deadly weapon is a Class E felony.
 - Reckless endangerment by discharging a firearm or antique firearm into a habitation is a Class C felony, unless the habitation was unoccupied at the time of the offense, in which event it is a Class D felony.
 - Reckless endangerment by discharging a firearm from within a motor vehicle is a Class C felony.
 - In addition to such authorized penalties, the court shall assess a fine of \$50.
- The proposed legislation expands the offense of reckless endangerment to include failing to lock, secure, or otherwise store or make unavailable a firearm and ammunition for the firearm that results in a child under 13 years of age gaining possession of the firearm and committing an act of mass violence that injures or kills the child or another.
- Per the language of the legislation:
- Reckless endangerment is a Class E felony if a child younger than 13 years of age obtains possession of the firearm, commits an act of mass violence with the firearm, and the act of mass violence results in bodily injury or serious bodily injury to the child or another.

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- Reckless endangerment is a Class C felony if a child younger than 13 years of age obtains possession of the firearm, commits an act of mass violence with the firearm, and the act of mass violence results in the death of the child or another.
- According to the 2022 paper, *Characterization of Mass Shootings by State, 2014-2022*, there have been a total of 124 mass shooting incidents in Tennessee in the last nine years, or an average of 13.7 mass shootings per year.
- A mass shooting in the study is defined as an incident with four or more individuals shot or killed, not including the shooter.
- The proposed language defines an act of mass violence as discharging firearm in a manner that causes two or more other persons to reasonably fear imminent bodily injury or death.
- This analysis assumes 10 percent of such incidents or 1.37 (13.7 x 10.0%) were committed with the use of a firearm that was obtained by a child younger than 13 years of age and the act of mass violence resulted in serious bodily injury or death.
- This analysis assumes individuals charged with reckless endangerment related to failing to secure a firearm pursuant to this legislation would be charged with a Class A misdemeanor offense of reckless endangerment pursuant to Tenn. Code Ann. § 39-13-103(b)(1) under current law.
- Passage of the proposed legislation will result in 0.69 new Class E felony admissions for reckless endangerment related to a child younger than 13 years of age obtaining possession of the firearm, committing an act of mass violence with the firearm, and the act of mass violence results in bodily injury or serious bodily injury to the child or another, and 0.68 new Class C felony admissions for reckless endangerment related to a child younger than 13 years of age obtaining possession of the firearm, committing an act of mass violence with the firearm, and the act of mass violence results in the death of the child or another.
- The average time served for Class E felony reckless endangerment is 0.5 years, after adjusting for pre-trial jail credits.
- The proposed legislation will result in 0.69 admissions annually serving 0.5 years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 1.07 percent per year (from 2019 to 2022).
- The weighted average operational costs per inmate per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 6,400	FY24-25
\$ 6,500	FY25-26
\$ 6,600	FY26-27

- The average time served for Class C felony reckless endangerment is 1.03 years, after adjusting for pre-trial jail credits.
- The proposed legislation will result in 0.68 admissions annually serving 1.03 years.

- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 12,700	FY24-25
\$ 13,300	FY25-26
\$ 13,400	FY26-27

- Pursuant to Chapter 1007 of 2022, recurring costs increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs will be \$20,000 (\$6,600 + \$13,400).
- It is assumed that an individual convicted of a Class A misdemeanor offense will spend an average of 15 days in a local jail.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$58.21.
- The recurring mandatory decrease in expenditures to local governments is estimated to be \$897 [(1.37 convictions x \$58.21 x 15) x 75%] in FY23-24 and \$1,196 (1.37 convictions x \$58.21 x 15) in FY24-25 and subsequent years.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal analysis are available upon request.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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